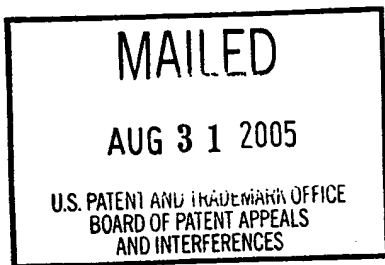


The opinion in support of the decision being entered today was **not** written for publication and is **not** precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte PRAMOD KAKUMANU REDDY,
EUGENE STEVEN SADLOWSKI,
ROBERT W. BOSWELL, and
JACK WESLEY ENGLISH, III

Appeal No. 2005-0887
Application No. 09/830,794

ON BRIEF

Before OWENS, WALTZ, and PAWLIKOWSKI, **Administrative Patent Judges.**

PAWLIKOWSKI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 11-30.

Claim 11 is representative of the subject matter on appeal and is set forth below:

11. A heavy duty liquid detergent composition comprising a surfactant system, and a polymer, wherein:

a) the polymer is selected from the group consisting of modified polyamines, polyamide-polyamines, polyethoxylated-polyamines, and mixtures thereof; and

b) the surfactant system comprises from about 0.1% to about 20%, by weight of the surfactant system of an alkyl benzene sulfonate surfactant, and wherein the surfactant system has a Hydrophilic Index, HI_c , of from about 8.0 to about 9.2, wherein

$$HI_c = \sum_y (\text{weight \% of surfactant } y \text{ in the surfactant system}) \times (HI_{sy})$$

wherein HI_{sy} is calculated for each of the surfactants in the surfactant system as follows:

$$HI_{sy} = 20 \times \frac{(\text{the molecular weight of the hydrophilic portion of surfactant system component } y)}{(\text{the molecular weight of surfactant component } y)}.$$

- I. Claims 11-13, 15-19, and 21-30 stand rejected under 35 U.S.C. § 102(e), as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious Gutierrez.
- II. Claims 11-13, 16-19, 21-26, and 28-30 stand rejected under 35 U.S.C. § 102(e), as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a), as being obvious over Swift.

We note that on page 5 of the answer, the examiner indicates that the rejection involving the reference of Cripe has been withdrawn.

On page 2 of the brief, appellants state that claims 11-30 stand or fall together. We therefore consider the broadest claim on appeal, which is claim 11. See former regulation 37 CFR § 1.192(c)(7)(2004).

The examiner relies upon the following references as evidence of unpatentability:

Swift et al. (Swift)	5,883,065	Mar. 16, 1999
Gutierrez et al. (Gutierrez)	5,955,415	Sep. 21, 1999

We have carefully reviewed the evidence of record, the appellants' brief, and the examiner's answer. This review has led us to the following determinations.

OPINION

I. The 35 U.S.C. §§ 102(e)/103(a) rejection of claims 11-13, 15-19, and 21-30 over Gutierrez

Beginning on page 4 of the brief, appellants argue that Gutierrez discloses detergent compositions where an object is to provide a composition that has enhanced peroxygen bleach stability. Appellants argue that in contrast, the present invention relates to a heavy duty liquid laundry detergent composition comprising a surfactant system which contains from about 0.1% to about 20% of an alkyl benzene sulfonate surfactant and, wherein this surfactant system has a particular hydrophilic index value.

Appellants also argue that Gutierrez does not teach or suggest a surfactant system having a hydrophilic index ranging from about 8.0 to about 9.2. Appellants also argue that Gutierrez does not teach a surfactant system containing a polymer selected from modified polyamines, polyamide-polyamines, polyethoxylated-polyamines and mixtures thereof. Appellants argue that Gutierrez provides no teaching or suggestion that any particular hydrophilic index value would be useful for any particular purpose. Brief, pages 4-5.

In response, beginning on page 5 of the answer, the examiner correctly points out that Gutierrez discloses a polyethyleneimine which satisfies appellants' claimed polymer selection for component a). The examiner refers to page 16, paragraph 5 of appellants' specification, wherein polyethyleneimines are disclosed as suitable polymers.

With regard to the hydrophilic index value, we find that in column 51, at lines 19-45, an example is set forth having C₁₂ alkyl benzene sulfonate as a useful anionic surfactant. This particular surfactant is encompassed by the disclosure found in appellants' specification on page 4 at lines 14-21.

We also find that the amount disclosed in this particular example in Gutierrez is 1%, which is within appellants' claimed range amount of the alkyl benzene sulfonate surfactant.

Because there is no difference between the amount and kind of alkyl sulfonate benzene surfactant disclosed in Gutierrez, and because the type of polymer (polyethyleneimine) disclosed in Gutierrez is the same as claimed by appellants, we agree with the examiner that the hydrophilic index value would fall within appellants' claimed range. It is well settled that the Patent and Trademark Office can require appellants to prove that a function or property relied upon for novelty is not possessed by prior art compounds otherwise meeting the limitations of the claims. In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). In the instant case, appellants have not provided such proof.

In view of the above, we therefore affirm the rejection involving Gutierrez.

II. The 35 U.S.C. §§ 102(e)/103(a) rejection of claims 11-13, 16-19, 21-26, and 28-30 over Swift

Beginning on page 2 of the brief, appellants argue that Swift discloses detergent compositions wherein an object is to provide a composition that provides superior cleaning and stain removal results, because the emulsified detergent composition provides separation of the water and surfactant phases in a low water wash system over a broad temperature range, and allows for cleaning below the cloud point of the surfactant system. Appellants argue that Swift discloses compositions that may contain water-soluble amine.

Appellants argue that in contrast, the present invention relates to a heavy duty liquid laundry detergent composition comprising a surfactant system which contains from about 0.1% to about 20% of an alkyl benzene sulfonate surfactant, wherein the surfactant system has a hydrophilic index of from about 8.0 to about 9.2. Appellants argue that Swift provides no teaching or suggestion that any particular hydrophilic index value would be useful for any particular purpose. Brief, pages 2-3.

On page 4 of the answer, the examiner explains how example 4 in Swift, found in column 17, contains the same components as claimed in appellants' claim 11. We agree. That is, example 4 sets forth 0.5% of a C₁₂₋₁₃ linear alky benzene sulfonate. This corresponds with appellants' component b), both in kind and amount. With regard to the selected polymer for component a), as pointed out on page 4 of the examiner's answer, the example discloses an ethoxylated tetraethylenepentamine, which is the kind of polyethoxylated-polyamine polymer described in the last paragraph on page 16 of the appellants' specification.

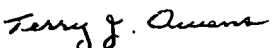
Hence, for the same reasons that we affirmed the rejection involving the reference of Gutierrez, we also affirm this rejection.

III. Conclusion

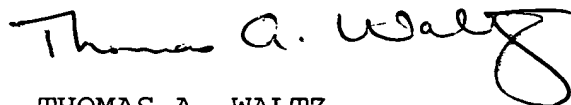
Each of the rejections is affirmed.

No time period for taking any subsequent action in connection with appeal may be extended under 37 CFR 1.136(a)(iv)(effective Sept. 13, 2003); 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sept. 7, 2004)).

AFFIRMED


TERRY J. OWENS

Administrative Patent Judge



THOMAS A. WALTZ

Administrative Patent Judge



BEVERLY A. PAWLIKOWSKI

Administrative Patent Judge

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BAP/sld

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Application No. 09/830,794

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